Calendar No. 866

99TH CONGRESS
2d Session

SENATE

REPORT
99-418

ADDING CERTAIN LANDS TO HAWAII VOLCANOES NATIONAL PARK IN THE STATE OF HAWAII

AUGUST 15 (legislative day, AUGUST 11), 1986.—Ordered to be printed

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Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

SEP 17 1986

REPORT

U. S. GOVT. PUBS.
DEPOSITORY 376

[To accompany S. 2320]

The Committee on Energy and Natural Resources to which was referred the bill (S. 2320), to amend the Act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes, having considered the same, reports favorably thereon with amendments to the text and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, lines 1 and 2, strike the words, "purchase with donated or appropriated funds, donations," and insert "donation".

2. On page 4, lines 3 through 5 strike section 5(f) in its entirety and insert in lieu thereof: " '(f) There is hereby authorized to be appropriated up to $700,000 to carry out the purpose of this section.' ".

PURPOSE OF THE MEASURE

S. 2320, as reported, would add 5,650 acres to the Hawaii Volcanoes National Park by facilitating a three-party exchange between the State of Hawaii and the Estate of James Campbell and, thereafter, between the State of Hawaii and the National Park Service.

BACKGROUND AND NEED

S. 2320, as reported from the Committee, would authorize the Secretary to acquire by donation or exchange an area of land adjacent to the existing boundary of Hawaii Volcanoes National Park, known as Tract 22. Such authority will facilitate a three-party ex-

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change between the State of Hawaii and the Estate of James Campbell and, thereafter, between the State of Hawaii and the National Park Service. Tract 22 comprises approximately 5,650 acres and supports dense ohia-fern rainforest which is prime habitat for several species of rare native birds. The Secretary is authorized to accept title to lands identified as Tract 22 and to convey title to any real property under his administrative jurisdiction, excluding real property within or administered as a part of the National Park System in the State of Hawaii. Authority is provided for a monetary payment to equalize the value in any exchange completed as a result of this Act. Such payment cannot exceed 25 percent of the appraised value. Provision is also made to have the General Services Administration transfer to the Secretary, without reimbursement, administrative jurisdiction over any excess or surplus United States Government real property in the State of Hawaii, excluding those lands ceded to the Federal Government from the State of Hawaii.

On April 18, 1986, the State of Hawaii and the Estate of James Campbell consummated an exchange, whereby Tract 22 was acquired by the State in exchange for State land located further downslope from the park. The State has indicated that it is willing to convey Tract 22 to the Federal Government for park purposes in exchange for appropriate Federal land that has been declared surplus by the General Services Administration or determined to be excess to the needs of the administering Federal agency.

Legislative History

S. 2320 was introduced by Senator Inouye and Senator Matsunaga on April 17, 1986. The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on the bill on June 20, 1986. The Administration opposes enactment of S. 2320.

At a business meeting on August 14, 1986, the Senate Committee on Energy and Natural Resources ordered S. 2320, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on August 14, 1986, by unanimous vote of a quorum present recommends that the Senate pass S. 2320, if amended, as described herein.

The rollcall vote on reporting the measure was 18 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker*	
Mr. Domenici	
Mr. Wallop*	
Mr. Warner	
Mr. Murkowski*	
Mr. Nickles	

Mr. Hecht
Mr. Evans
Mr. Johnston
Mr. Bumpers
Mr. Ford
Mr. Metzenbaum*
Mr. Melcher*
Mr. Bradley
Mr. Bingaman
Mr. Rockefeller

*Indicates voted by proxy.

Committee Amendments

Amendment number 1 limits the authority of the United States to acquire the tract identified in section 5(a) from the State of Hawaii to exchange or donation only.

Amendment number 2 amends the authorization on appropriation to provide a specific amount to be available for cash equalization payments, if necessary, and for costs of acquisition such as appraisals and title costs.

The Committee notes that any real property acquired by the State of Hawaii through the exchange process in this Act, shall not be from among the lands ceded to the United States in 1898 since these lands revert to the State of Hawaii automatically when no longer needed by the United States.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office.

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 15, 1986.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman. The Congressional Budget Office has reviewed S. 2320, a bill to amend an act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources, August 14, 1986. CBO estimates that enactment of this bill would increase federal costs by about $300,000 in fiscal year 1987.

S. 2320 would authorize the Secretary of the Interior to acquire by donation or exchange about 5,650 acres for inclusion in the Hawaii Volcanoes National Park. The bill would authorize the appropriation of $700,000 to facilitate the acquisition of the designated acreage. Based on current plans of the National Park Service, CBO estimates that total costs relating to acquisition are not likely to exceed $300,000, assuming appropriation of the necessary funds. These funds would be spent for necessary appraisals and administrative activities.

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Enactment of this bill is not expected to have any significant impact on the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2320. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2320, as reported.

EXECUTIVE COMMUNICATIONS

On May 12, 1986, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 2320. These reports had not been received at the time the report on S. 2320 was filed. When the reports become available, the chairman will request that they be printed in the Congressional Record for the advice of the Senate.

The pertinent legislative report received by the Committee from the General Services Administration setting forth executive agency recommendations relating to S. 2320 are set forth below:

GENERAL SERVICES ADMINISTRATION,
Washington, DC, August 5, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Your Committee requested the views of the General Services Administration (GSA) on S. 2320, a bill "To amend an Act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes."

S. 2320 would authorize the Secretary of the Interior to acquire by purchase, donation, or exchange an area of land adjacent to the existing boundary of Hawaii Volcanoes National Park known as Tract 22. The intent of S. 2320 is to facilitate a three-party exchange between the State of Hawaii and the owner of Tract 22 and, thereafter, between the State of Hawaii and the National Park Service. Tract 22 comprises approximately 5,650 acres that would be included within the boundaries of and administered as a part of Hawaii Volcanoes National Park. The Secretary is authorized to accept title to lands identified as Tract 22 and to convey title to any real property under his administrative jurisdiction, excluding real property within or administered as a part of the National

Park System in the State of Hawaii. Authority is provided for a monetary payment to equalize the value but not to exceed 25 percent of the appraised value.

For purposes of carrying out the proposed exchange, the bill directs the Administrator of General Services to transfer to the Secretary, upon request and without reimbursement, any excess or surplus Federal real property in the State of Hawaii, excluding those lands ceded to the United States Government from the State of Hawaii.

We strongly oppose the enactment of S. 2320.

GSA opposes the exchange authority contained in the bill since an acquisition by exchange also involves a disposal action. We oppose as a matter of policy legislation which provides for the disposal of real property at variance with the authority granted the Administrator of General Services under the Federal Property and Administrative Services Act of 1949, as amended and other laws of general application. GSA also is generally opposed to exchanges of Government-owned real property as a means of acquisition. We believe that an exchange should only be used in limited circumstances, if at all, because this procedure (1) circumvents the authorization and appropriations process of Congress, (2) preempts the rights of all other Federal Government users, donees, and purchasers, and (3) may not return the highest value on the Government's asset used in the exchange.

In addition, we oppose the provision which directs the Administrator to transfer to the Secretary any excess or surplus property located in the State of Hawaii. Not only would the provision prevent the Administrator from carrying out his responsibilities under existing law, but the proposed transfers are contrary to estalished Administration policy which requires reimbursement of the estimated fair market value.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no ojection to the submission of this report to your Committee.

Sincerely,

TERENCE C. GOLDEN, *Administrator.*

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2320, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF JUNE 20, 1938

(52 Stat. 781; 16 U.S.C. 391b)

* * * * * * *

SEC. 4. That the provisions of the Act of August 1, 1916 (39 Stat. 432), entitled "An Act to establish a national park in the Territory of Hawaii"; the Act of August 25, 1916 (39 Stat. 535), entitled "An Act to establish a National Park Service, and for other purposes";

the Act of February 27, 1920 (41 Stat. 452), entitled "An Act to authorize the Governor of the Territory of Hawaii to acquire privately owned lands and rights-of-way within the boundaries of the Hawaii National Park"; and all Acts supplementary to and amendatory of said Acts are made applicable to and extended over the lands hereby added to the park: *Provided,* That the provisions of the Act of June 10, 1920, as amended, entitled "An Act to create a Federal Power Commission; to provide for the improvement of navigation; the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriations Act, approved August 8, 1917, and for other purposes", shall not apply to or extend over such lands (U.S.C., title 16, sec. 391): *And provided further,* That the Governor of the Territory of Hawaii is authorized to convey to the United States any and all lands and interests in lands acquired by the Territorial Government under the provisions of this Act.

SEC. 5. (a) Notwithstanding any other provision of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation or exchange the land and interests therein comprising approximately 5,650 acres and identified as tract number 118/22 on the map entitled "Recommended Land Acquisition", in the Hawaii Volcanoes National Park Land Protection Plan as recommended May 17, 1985, which plan shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior, Washington, D.C. and the Office of the Superintendent, Hawaii Volcanoes National Park, Hawaii.

(b) In exercising his authority to acquire the real property referred to in subsection (a) by exchange, the Secretary may accept title thereto and in exchange therefor he may convey to the grantor of such real property title to any United States Government real property under his administrative jurisdiction, other than real property within or administered as a part of the National Park System, in the State of Hawaii which he determines is suitable for such exchange. The values of the properties exchanged shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. In no circumstance shall an equalization payment exceed one fourth (25 percent) the appraised value of the real property referred to in subsection (a). Any money paid to the Secretary shall be deposited as miscellaneous receipts in the Treasury of the United States.

(c) Real property owned by the State of Hawaii or any political subdivision thereof may be acquired only by donation or exchange.

(d)(1) In order to facilitate the acquisition of the real property referred to in subsection (a) by exchange, notwithstanding any other provision of law, upon request of the Secretary, the Administrator of General Services shall transfer to the Secretary, without reimbursement, administrative jurisdiction over any excess or surplus United States Government real property in the State of Hawaii for purposes of such an exchange.

(2) For the purposes of a land exchange with the State of Hawaii, the Secretary shall consult with the State of Hawaii in the process

of identifying suitable exchange lands belonging to the United States Government.

(3) For the purposes of a land exchange with the State of Hawaii, real property owned by the United States Government and selected for use in a land exchange shall not be from among those lands ceded to the United States Government.

(e) The real property acquired by the Secretary pursuant to this section shall be administered by the Secretary as part of Hawaii Volcanoes National Park, subject to the laws and regulations applicable to the Park.

(f) There is hereby authorized to be appropriated up to $700,000 to carry out the purpose of this section.

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